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10/730,447	12/08/2003	Tom Yuxin Zhu		2264

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EXAMINER

FETSUGA, ROBERT M

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/730,447
Filing Date: December 08, 2003
Appellant(s): ZHU, TOM YUXIN

MAILED
MAR 21 2006
GROUP 3700

Tom Yuxin Zhu
Appellant pro se

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 01, 2006 appealing from the Office action mailed August 29, 2005. It is noted the brief is considered to substantially comply with 37 CFR 41.37(c)(1) in accordance with MPEP 1205.02.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Appellant is apparently only aware of the current appeal as stated in the brief.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

Compliance with this item is waived in accordance with MPEP 1205.02.

(6) Grounds of Rejection to be Reviewed on Appeal

Compliance with this item is waived in accordance with MPEP 1205.02.

Art Unit: 3751

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,010,497	Menter et al.	03/1977
EP 506,464	Pang	09/1992

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 29-33 and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Menter et al. The Menter et al. (Menter) reference discloses a splash prevention device comprising: a sheet of paper/means 3 including a plurality of floating arms/means (defined by 3') and disinfectants (col. 2 lns. 49-51), as claimed.

Claims 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menter and Pang. Re claim 34, although the Menter device does not include wax coating, as claimed, attention is directed to the Pang reference which discloses an analogous device which further includes a slippery surface. Therefore, in consideration of Pang, it would have been obvious to one of ordinary skill in the art to associate a slippery

Art Unit: 3751

surface with the Menter device in order to facilitate material passage. Furthermore, the choice of specific coating material would appear an obvious choice to be made. Re claim 29, to the extent applicant believes the claims are limited to arms having a free end (as apparently argued at page 5 of the response), the examiner notes Pang also teaches arms of such structure.

(10) Response to Argument

Appellant argues at pages 3-4 of the brief that the floating arms of the Menter splash prevention device do not allow passage of waste, and that the examiner has not provided a reasonable explanation as to why the floating arms of Menter function in the same manner as the claimed floating arms. The examiner can not agree. Indeed, the Menter splash prevention device is a buoyant sheet of paper having a series of cuts that define arms which allow the passage of waste and prevent splashing (Menter at col. 2 lns. 34-38, see also pg. 2 lns. 17-20 of the instant specification). As this teaching is part of the Menter patent and was acknowledged by appellant at the time of filing the instant application, it is unclear how the examiner has now failed to explain why the claimed device is met by the Menter disclosure. Clearly, appellant's argument is without merit. While the floating arms disclosed by Menter may not have free ends, as argued, this subject matter is not found

Art Unit: 3751

in any claim at bar. The Menter disclosure clearly meets the claimed subject matter of "a sheet of paper with a plurality of floating arms" (claim 1), and a sheet of paper including "means for the passage of substantially solid object" (claim 35).

Appellant argues at page 4 of the brief the floating arms disclosed by Menter "can not form a high percentage of coverage." Likewise, this argument is seen to be without merit at least when comparing Fig. 1 of the Menter disclosure with appellant's Fig. 1. Moreover, the preferred oval shape associated with the Menter splash prevention paper would provide more complete coverage of an oval shaped toilet bowl compared to the rectangular/square sheet of paper disclosed by appellant.

Appellant argues at page 3 of the brief the instant application does not contain any disclosure concerning a slippery surface. However, this statement appears inconsistent with appellant's disclosure. Indeed, the last paragraph on page 6 of the instant specification discusses associating a hydrophobic material with the floating arms. A hydrophobic material is extremely slippery. Appellant did not address the grounds of rejection concerning claim 29 over the combined disclosures of Menter and Pang.

(11) Related Proceeding(s) Appendix

Art Unit: 3751

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Robert M. Fetsuga

Conferees:

jry

sth

